

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

06 CR 214 CVE

UNITED STATES OF AMERICA,)

No. _____

Plaintiff,)

FILED UNDER SEAL

vs.)

INFORMATION

SINCLAIR TULSA REFINING
COMPANY,)

[33 U.S.C. §1319(c)(2)(A):Clean Water
Act]

Defendant.)

SEALED

FILED

DEC 12 2006

Phil Lombardi, Clerk
U.S. DISTRICT COURT

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

I. Introduction

At all times material to this Information:

1. Defendant **SINCLAIR TULSA REFINING COMPANY** (“**SINCLAIR**”) was a Wyoming Corporation, incorporated on December 28, 2005. On March 1, 2006, defendant **SINCLAIR** acquired all assets and assumed all liabilities with respect to the Tulsa Refinery from its parent company. All employees at the Tulsa Refinery as of February 28, 2006 were retained by **SINCLAIR**. **SINCLAIR**’s parent company owned and operated the Tulsa Refinery from 1983 to March 1, 2006. It has operated an oil refinery in Tulsa County, Oklahoma, since 1983.

2. Tanks 474 and 475 were 3,066,000-gallon storage tanks at the Tulsa Refinery that were used to store wastewater prior to treatment and discharge.

3. The “L-Shaped Pond,” also known as impoundment F02/F03, was a concrete-lined impoundment with a capacity of 6.94 million gallons, authorized to receive only storm water run-off from refinery process units.

4. The Walnut Grove Treatment Unit was a 20-acre plot of land on defendant **SINCLAIR**’s refinery premises that was authorized for the disposal of treated refinery waste water.

5. The Flare Area Treatment Unit was a 25-acre plot of land on the Tulsa Refinery premises that was formerly authorized for disposal of certain refinery wastes.

6. Between January 2000 and March 2004, the Sinclair refinery discharged an average of 1.1 million gallons of treated wastewater per day into the Arkansas River.

7. Defendant **SINCLAIR**, by and through its employees, did knowingly manipulate refinery processes, wastewater flows, and discharges of wastewater to the Arkansas River so as to cause unrepresentative sampling and monitoring of the wastewater discharge, in order to influence analytical testing results reported to the ODEQ and EPA. Defendant **SINCLAIR** would and did:

- a. Reduce flow rates of wastewater discharges to the river during monitoring periods;
- b. Divert to holding impoundments wastewater flows that exceeded treatment and discharge rates;
- c. Divert more heavily contaminated wastewater to holding

impoundments;

- d. Divert process wastewater to a storm water impoundment;
- e. Increase discharge flow rates during periods of no monitoring;
- f. Irrigate Land Treatment Units extensively with refinery

wastewater during monitoring periods;

- g. Change processing of refinery crude oil stock during monitoring periods.

8. The State of Oklahoma has established a regulatory control program for limiting discharges of pollutants into waters of the state, through the issuance of permits in accordance with the Oklahoma Pollutant Discharge Elimination System (OPDES).

Pursuant to provisions in the CWA, the Administrator of the United States Environmental Protection Agency (EPA) delegated authority to the State of Oklahoma, Department of Environmental Quality (ODEQ), to administer the NPDES program on November 19, 1996. 61 Fed. Reg. 65,047 (1996). Pursuant to that authority, the ODEQ may issue NPDES permits for discharge of pollutants into waters of the U.S. Subsequent to delegation of NPDES authority, the ODEQ has issued joint NPDES/OPDES discharge permits.

9. On May 1, 1998, the ODEQ issued OPDES/NPDES permit OK0001309 to the Sinclair Oil Corporation Tulsa Refinery, which was effective July 1, 1998, and expired June 30, 2003, and was continued in effect from June 30, 2003 until August 31,

2009 pursuant to an application for renewal filed on January 6, 2003. The permit authorized the discharge of treated wastewater into the Arkansas River, pursuant to certain limitations and conditions. Among the permit conditions was a requirement that defendant **SINCLAIR** conduct compliance monitoring of the treated wastewater discharged to the river, during three 24-hour periods each week. Defendant **SINCLAIR** conducted the required sampling during weekdays. The permit also required that samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Among the limitations in the permit was a requirement that Sinclair's treated wastewater discharge to the river not exceed daily and monthly concentrations established for certain pollutants, and not exceed daily and monthly mass loading limits; periodic toxicity monitoring was also required.

10. On February 19, 2002, based on an entry in the Orders Book, "Keep wastewater at 800 GPM (gallons per minute)/oil and grease still high," defendant **SINCLAIR** directed employees who operated the wastewater treatment unit to restrict wastewater flow to the river during the NPDES/OPDES testing period due to high oil and grease concentration in the wastewater.

11. On February 22, 2002, based on an order in the Orders Book to "limit flow from Tank 475 to the wastewater treatment plant between February 22 and 27 because bio-monitoring was imminent," defendant **SINCLAIR** directed employees who operated the wastewater treatment unit to limit the flow of toxic process wastewater from

Tank 475 into the wastewater treatment plant during the period Sunday, February 24, 2002, until Wednesday, February 27, 2002 or Thursday, February 28, 2002, because a OPDES/NPDES permit required bio-monitoring test was imminent.

12. On Monday, June 10 and again on Tuesday June 11, 2002, based on direction in the Orders Book, "STOP draw back until Wednesday (flea test imminent)," Sinclair directed employees who operated the wastewater treatment unit to temporarily stop the flow of wastewater from Tank 475 into the wastewater treatment plant until June 13, 2002, because a OPDES/NPDES required bio-toxicity monitoring test was scheduled to take place.

13. On August 14, 2003, based on an entry in the Orders Book, Draw back all you can, watch PH and don't flood clarifiers," defendant **SINCLAIR** directed employees who operated the wastewater treatment unit to draw all the impounded wastewater that they could from Tank 475 into the wastewater treatment system over the weekend, during a non-sampling period, yet to monitor the PH or acidic level in the wastewater and its effect on the wastewater treatment system, and to reduce the drawback on the following weekday.

14. On December 24, 2003, based on an order in the Orders Book, "Cut back weekend flows to 700-800 GPM (gallons per minute) since bio-monitoring test imminent," defendant **SINCLAIR** directed employees who operated the wastewater treatment unit, to limit the flow of wastewater to the river to 700-800 gallons-per-minute

beginning on the morning of Saturday, December 27, 2003, because defendant **SINCLAIR**'s OPDES/NPDES permit required bio-toxicity monitoring event was scheduled to occur.

15. On December 29, 2003, based on an entry in the Stardate Book, "Put tank 8 on charge to VPS because crude is high in ammonia and we must sample for our flea test," defendant **SINCLAIR** directed its employees to divert crude oil received from a particular pipeline to a storage tank, and substitute "sweet crude" oil from Tank 8 to a refinery process, because the particular pipeline crude was high in ammonia which can cause bio-toxicity monitoring test which was scheduled to take place to fail.

From on or about August 14, 2003, in the Northern District of Oklahoma, Defendant **SINCLAIR** did knowingly manipulate wastewater flows and discharges of wastewater to the Arkansas River so as to cause unrepresentative sampling and monitoring of the wastewater discharge, a violation of an OPDES/NPDES permit condition.

All in violation of Title 33, United States Code, Section 1319 (c) (2) (A), and Title 18, United States Code, Section 2.

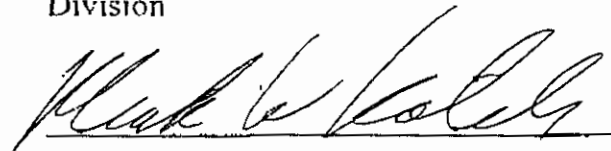
COUNT TWO

The United States realleges, adopts, and incorporates by reference herein, all of the allegations contained in Section I, 1-13 of Count One of the Information, and further alleges:

From on or about December 24, 2003, to on or about December 29, 2003, in the Northern District of Oklahoma, Defendant SINCLAIR did knowingly manipulate wastewater flows and discharges of wastewater to the Arkansas River so as to cause unrepresentative sampling and monitoring of the wastewater discharge, a violation of an OPDES/NPDES permit condition.

All in violation of Title 33, United States Code, Section 1319 (c) (2) (A), and Title 18, United States Code, Section 2.

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